

R. V. asks the Appeals Board of the Utah Labor Commission to review Administrative Law Judge Hann's dismissal of Mr. V.'s claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Appeals Board exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12 and Utah Code Ann. §34A-2-801(3).

### **BACKGROUND AND ISSUES PRESENTED**

On June 19, 2002, Mr. V. filed an application for hearing with the Commission to compel ARUP and its workers' compensation insurance carrier, Transamerica (referred to jointly as "ARUP"), to pay workers' compensation benefits for injuries Mr. V. allegedly suffered while working for ARUP on October 27, 1994, and February 7, 1995. ARUP responded by, among other things, raising the affirmative defense that Mr. V.'s claims were barred by the six-year statute of limitations found in §34A-2-417(2) of the Act.

On March 12, 2004, Judge Hann dismissed Mr. V.'s February 7, 1995, claim on the grounds he did not notify ARUP of the claim within 180 days as required by §34A-2-407(2). Judge Hann denied Mr. V.'s October 27, 1994, claim on the grounds he did not file an application for hearing within six years as required by §34A-2-417(2) of the Act. Mr. V. now asks the Appeals Board to review Judge Hann's decision.

### **DISCUSSION**

Mr. V. claims workers' compensation benefits for alleged injuries occurring on October 27, 1994, and February 7, 1995. Whether or not ARUP had notice of Mr. V.'s alleged injuries within the 180-day period of §34A-2-407(2), it is undisputed that ARUP never accepted liability under the workers' compensation system for those injuries or paid any workers' compensation benefits to Mr. V.. It is also undisputed that more than six years elapsed between the date of the alleged injuries and the date on which Mr. V. filed an application for hearing with the Commission.

Section 34A-2-417(2) of the Utah Workers' Compensation Act provides that a claim for workers' compensation benefits is barred unless the employee files an application for hearing no later than six years from the date of the accident. In this case, Mr. V. did not meet §34A-2-417(2)'s filing requirement with respect to either of his alleged accidents. The Appeals Board therefore concludes Mr. V.'s claims are now barred.

In light of Mr. V.'s failure to timely file his application for hearing, the Appeals Board finds it unnecessary to address the question of whether Mr. V. also failed to meet §34A-2-407(2)'s 180-day notice requirement.

### **ORDER**

The Appeals Board affirms Judge Hann's decision and denies Mr. V.'s motion for review. It

is so ordered.

Dated this 26<sup>th</sup> day of October, 2004.

Colleen S. Colton, Chair  
Patricia S. Drawe  
Joseph E. Hatch